

**UNITED STATES BANKRUPTCY COURT
Southern District of Georgia**

In re:

**Gautam Upendra Patel,
Debtor.**

Case No.: 19-11073-SDB

Judge: Susan D. Barrett

Chapter: 7

ORDER AND NOTICE OF MOTION TO SELL FREE AND CLEAR OF LIENS

On December 19, 2019 , James C. Overstreet, Jr., Trustee , filed a Motion to Sell Free and Clear of Liens and shows the following:

That the Trustee is the duly appointed and qualified Chapter 7 Trustee of the above referenced estate. Contemporaneously with or prior to the filing of this Application, Trustee has employed Billy Franke and his firm, Franke Real Properties, LLC as real estate broker/agent for the instant estate for the purposes of marketing for sale certain real estate assets of the estate, described more fully as: 302 Cambridge Court, Thomson, McDuffle County, Georgia. According to the public record, Property is encumbered by a first position lien in favor of Nationstar Mortgage/Mr. Cooper believed to be approximately \$65,000.00.

Broker has procured a written offer to purchase Property from the Estate by Albayana Olatunji Carr ("Buyer") for the sum of \$250,000.00. Upon information and belief, Buyer is a disinterested person. Under the terms of such offer as proposed, Buyer will close such transaction on or within 30 days of this Court's approval of the instant sale.

Trustee respectfully requests permission to sell Property to Buyer under the terms set forth herein, and under otherwise ordinary and customary terms, free and clear of all liens. From the proceeds of sale, Trustee shall pay, the following, in order of priority,

- a. Ordinary and customary closing costs including deed stamps and taxes if required by the Contract all as required by the Purchase and Sale Agreement; then
- b. Any real estate taxes, back or current, owed to any local taxing authorities for ad valorem taxes; then
- c. Real Estate Commissions due to Broker in the amount of seven percent (7%) of the gross sales price of Property; then
- d. Amounts necessary to release the first position lien in favor of Bank as set forth herein; then
- e. The balance of any sales proceeds, after payment of the above, shall be paid over to the Estate ("Net Sales Proceeds").

In consideration of the amounts set forth to be paid, all of the entities identified shall release all claims of interest in Property and the proceeds therefrom. Any other valid liens not released by such payment shall attach to the net sales proceeds to the same extent and priority as such liens would have attached to Property.

The purchase price for Property is believed to be a fair purchase price. The Trustee believes such sale to be in the best interest of the Estate and the Estate's creditors. Trustee further requests approval of a commission to Broker in the amount of seven percent (7%) of the purchase price of Property, and permission to pay same out of the closing proceeds and at closing. Such commission is normal, customary and reasonable and is within the commission structure by which this Court initially approved Broker's employment.

WHEREFORE, Trustee respectfully prays that this Court,

- a. Issue an Order allowing Trustee to sell Property to Buyer free and clear of all liens and claims save (1) Bank, which shall be paid at closing as provided for herein, and (2) any local taxing authorities, which liens and claims shall be paid out of closing, with all other valid liens attaching to the net sales proceeds of Property to the same extent and priority such liens would have attached to Property; and
- b. Issue an Order approving the fees and payment thereof from the closing proceeds of a commission to Broker as outlined herein; and
- c. Issue such other and further relief as this Court deems necessary and proper.

IT IS HEREBY ORDERED that all parties shall show cause in writing on or before January 27, 2020, and serve a copy on James C. Overstreet, Jr., 1229 Augusta West Parkway, Augusta, Georgia 30909 why motion should not be granted as outlined above, and urge any objections at a hearing which will be held to consider this Motion on:

February 20, 2020 , at 09:00 AM
Federal Justice Center, Plaza Bldg, 600 James Brown Blvd (9th St), Augusta, GA 30901

FURTHER ORDERED, any creditor claiming a lien on said property shall appear at the hearing with records sufficient to document such claim.



Susan D. Barrett

Susan D. Barrett
United States Bankruptcy Judge
Federal Justice Center
600 James Brown Blvd
P.O. Box 1487
Augusta, GA 30903

Dated **January 6, 2020**

B-18 (07/17) CCB